IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 10878 OF 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

==========

DEPUTY CONSERVATOR OF FOREST - Petitioner(s)
Versus
BABU KHEDA DABHI - Respondent(s)

==========

Appearance :
Shri I.M. Pandya, Assistant Government Pleader for Petitioner(s).
None for Respondent(s).

==========

CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 09/07/2007

ORAL JUDGMENT

The State, being aggrieved by the judgement and award

dated 12th March, 2001 passed by the learned Presiding Officer, Labour Court, Junagadh in Reference (LCJ) No.132 of 1991, is before this Court with a submission that the learned Labour Court could not direct reinstatement with 30% back-wages because the respondent was a daily rated employee.

2. From the judgement of the learned Labour Court, it would clearly appear that the respondent had worked for more than 240 days in twelve calendar months preceding the date of termination/retrenchment and the fact is admitted by Vallabhbhai Jairambhai (Exh.12), a witness examined by the present petitioner. If that be so, then, the provisions of Section 25-F of the Industrial Disputes Act, 1947 were required to be observed.

3. If the provisions of Section 25-F of the Act are not observed, then, removal would amount to illegal retrenchment and the learned Labour Court would have jurisdiction to quash or set aside such retrenchment and direct reinstatement with back-wages.

4. The learned Labour Court was absolutely justified in answering the reference in favour of the workman.

5. I find no reason to interfere. The petition deserves to and is, accordingly, dismissed. Rule is discharged. Interim relief, if any, is

vacated. No costs.

[R.S.Garg, J.]

*kamlesh**